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Report of the Secretary-General pursuant to Security Council resolution 1846 (2008)

I. Introduction

1. The present report is submitted pursuant to operative paragraph 17 of Security Council resolution 1846 (2008) of 2 December 2008, in which the Council requested me to report on the implementation of that resolution and on the situation with respect to piracy and armed robbery in territorial waters and the high seas off the coast of Somalia. The report updates the assessment contained in my report of 16 March 2009, submitted pursuant to that resolution (S/2009/146) and is based on information received as of 31 October 2009.

2. As in my previous report, the following assessment and recommendations are based on information provided to me by Member States and regional organizations, in conformity with paragraph 16 of resolution 1846 (2008). Consultations have also been undertaken within the United Nations system as well as with the International Criminal Police Organization (INTERPOL) and the Monitoring Group on Somalia re-established pursuant to resolution 1853 (2008).

3. The report provides an assessment of the piracy situation and examines the political, legal and operational activities that have been undertaken by Member States, regional organizations and the United Nations and its partners in the fight against piracy and armed robbery at sea off the coast of Somalia. It concludes with observations on ways in which the long-term security of international navigation off the coast of Somalia, including seaborne humanitarian deliveries to Somalia and the United Nations supply line to the African Union Mission in Somalia (AMISOM), can be secured. Finally, the report outlines the role that the United Nations can play at this stage.

II. Reported incidents of piracy off the coast of Somalia

4. The International Maritime Organization (IMO) issues monthly reports and quarterly and annual summaries of all incidents of piracy and armed robbery against ships reported to the Organization (MSC.4 series circulars, promulgated on the IMO website, www.imo.org). During 2008, 306 incidents were reported worldwide, of which 136 occurred in the East African area. In the period from 1 January to 30 September 2009, 300 incidents were reported worldwide, of which 160 occurred in the East

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African area. In the waters off the coast of Somalia, 34 ships were hijacked and in excess of 450 seafarers were taken hostage during the same period.

5. Two successful hijacking attempts were carried out between July and September 2009. The number of alleged attempts and attacks brought to the attention of IMO dropped from 95 in the second quarter of 2009 to 26 in the third quarter, owing largely to seasonal weather conditions. Since then there has been resurgence in the number of attacks, in particular in the western Indian Ocean. As of 27 October 2009, eight ships and 178 seafarers were being held hostage.

6. No significant observable change occurred during the reporting period in the modus operandi of pirate attacks, except that the locus of such activities shifted from the Gulf of Aden to the western Indian Ocean and, more recently, closer to Seychelles, largely as a result of successful naval action. There is also some information to suggest that smaller ships, such as fishing vessels and pleasure craft, are increasingly being targeted, but as yet there is insufficient data for a detailed analysis.

III. International cooperation to address piracy off the coast of Somalia

7. During the reporting period, the efforts of the international community to provide coherence to, and support for, international and regional initiatives to combat piracy intensified.

8. The Contact Group on Piracy Off the Coast of Somalia was established as an international cooperation mechanism to act as a common point of contact between and among States and regional and international organizations on all aspects of combating piracy, in line with paragraph 4 of resolution 1851 (2008). Since its inaugural meeting on 14 January 2009, the Contact Group has convened a further three plenary meetings, on 17 March, 29 May and 10 September 2009. Forty-five Member States and seven international and regional organizations participated in its most recent meeting. The Contact Group is supported by four working groups, which address specific thematic priorities.

9. As detailed in my previous report (S/2009/146), Working Group 1, which is chaired by the United Kingdom of Great Britain and Northern Ireland, was established to examine activities related to military and operational coordination and information-sharing and the establishment of the regional coordination centre. In the past 10 months, that role has developed significantly, and the Working Group is focusing primarily on the operational coordination of military naval activities in the region and regional capacity development. During the reporting period, the United Kingdom, as Chair of Working Group 1, led two assessment missions to the region to ascertain the potential for support to countries in the region and to Somalia.

10. Working Group 2, on legal issues, which is chaired by Denmark and has met three times since its establishment in January 2009, has undertaken the task of providing specific guidance to members of the Contact Group on legal issues related to the fight against piracy, including to ensure the prosecution of suspected pirates. To this end, the Working Group has begun to develop a set of practical tools with the aim of providing support to States and organizations participating in that effort, and it also serves as an important forum for the sharing of information and best

practices. Working Group 2 was also responsible for the planning and preparation of the trust fund modality to support initiatives of the Contact Group.

11. Working Group 3, on the strengthening of shipping self-awareness and other capabilities, which is chaired by the United States of America, reported to the Contact Group at its 10 September meeting that in August 2009, 12 industry organizations, representing the vast majority of shipowners and operators of the seafarers working on ships transiting the region, had updated the document entitled "Best management practices to deter piracy in the Gulf of Aden and off the coast of Somalia". In September 2009, IMO circulated the document to all Member States and the shipping industry (MSC.1/Circ.1335), urging Governments and the industry to follow the new practices. The Contact Group also commended the related partnership between Egypt and the European Union Naval Force for training and the sharing of information with vessels transiting the Suez Canal.

12. At its third meeting, on 29 May 2009, the Contact Group endorsed the communication and media strategy proposed by Egypt, as Chair of Working Group 4 (diplomatic and public information efforts), the aim of which is to coordinate communications activity addressing piracy off the coast of Somalia and inform the wider international community of all Contact Group policies, recommendations and activities. The strategy identifies the key messages that should be delivered to various target audiences, including Somalis in and outside Somalia, neighbouring States and the international community, as well as the shipping industry. The Working Group welcomed the report submitted by the United Nations Political Office for Somalia (UNPOS) on implementing the media and advocacy strategy in affected areas of Somalia.

13. At its meeting on 10 September, the Contact Group approved the terms of reference of an international trust fund which is designed to help defray the expenses associated with the prosecution of suspected pirates as well as other activities related to implementing Contact Group objectives regarding combating piracy in all its aspects.

14. I would like to stress that the United Nations Secretariat and IMO have assisted the Contact Group since its inception, both as contributing members and in the provision of substantive support. The United Nations Office on Drugs and Crime acts as secretariat to Working Group 2 and has provided support in various ways to further its work. In particular, the Office has prepared an analysis of the legal and practical challenges to prosecuting suspected pirates and is gathering information on relevant national legal systems, including those of coastal States. The Office of Legal Affairs has also actively supported States in Working Group 2 by providing papers and statements, in particular on the international legal regime applicable to piracy, international tribunals and the applicability of international human rights obligations to the detention of suspected pirates at sea and their transfer to regional States. IMO typically hosts the meetings of Working Groups 1 and 3.

15. Member States continued during the reporting period to hold separate international meetings on piracy, further demonstrating the strong political resolve to deal with the problem. The Seoul High-level Meeting on Piracy Off the Coast of Somalia was held on 9 and 10 June 2009, hosted by the Government of the Republic of Korea, with a contribution by the Government of Japan and in cooperation with IMO. The purpose of the meeting, which was attended by delegations from Member States and representatives of intergovernmental and non-governmental

organizations, was to support mechanisms and programmes for cooperation to prevent and suppress piracy and armed robbery at sea off the coast of Somalia and to enhance the safety of navigation, environmental protection and maritime security in the Gulf of Aden and the western Indian Ocean.

16. In my previous report, I noted that the Djibouti Code of Conduct concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden had entered into force on 29 January 2009 with the signatures of nine regional States. Egypt signed the Code of Conduct on 1 October 2009, and a further three signatures are expected before the end of 2009. The Code of Conduct is open for signature by the 21 Member States in the region.

IV. Notifications to the Transitional Federal Government of Somalia

17. As at 31 October 2009, the Secretariat had received confirmation from the Permanent Mission of Somalia to the United Nations that the following Member States and regional organizations have transmitted advance notifications of their cooperation with the Transitional Federal Government in the fight against piracy and armed robbery at sea off the coast of Somalia: Canada, India, China, Turkey, the Russian Federation, the United States of America, Denmark, France, the Netherlands, Spain, the United Kingdom of Great Britain and Northern Ireland, Australia, the Islamic Republic of Iran, the Republic of Korea, the European Union and the North Atlantic Treaty Organization (NATO).

V. Naval activities off the coast of Somalia

18. The combined efforts of the international naval forces operating off the coast of Somalia have significantly increased in the past 11 months. This has considerably reduced successful incidents of piracy and armed robbery at sea in the region. Although the various forces are operating under different mandates, some regional and some national, all have a similar objective: to deter and prevent piracy and armed robbery at sea off the coast of Somalia; to ensure the safe delivery of humanitarian assistance to the region; and to facilitate safe navigation for all merchant shipping. They do so within the appropriate legal frameworks, including the United Nations Convention on the Law of the Sea and Security Council resolutions 1814 (2008), 1816 (2008), 1838 (2008), 1846 (2008) and 1851 (2008).

19. In accordance with paragraphs 6, 7 and 9 of resolution 1846 (2008), during the reporting period, three multinational maritime coalitions have been contributing to the fight against piracy off the coast of Somalia since the adoption of the resolution: (a) European Union Naval Force Operation Atalanta; (b) NATO, using standing maritime forces; and (c) the United States-led Combined Maritime Forces, first using the already-established Combined Task Force (CTF-150) and then establishing CTF-151 in January 2009 to specifically address piracy in the region. In addition, several Member States have acted independently, some coordinating their operations with the multinational coalitions.

A. Multinational maritime coalitions

Operation Atalanta

20. Since the issuance of my previous report, European Union Naval Force Operation Atalanta has continued to play a key role as part of the European Union contribution to the deterrence, prevention and repression of piracy and armed robbery at sea off the coast of Somalia within the framework of the European Security and Defence Policy. Operation Atalanta operates in a zone comprising the south of the Red Sea, the Gulf of Aden and part of the Indian Ocean, including Seychelles and, more recently, areas remote from the East African coastline. On 15 June, the European Union General Affairs External Relations Council extended the operation's mandate for an additional 12 months to December 2010. The European Union will formally renew the mandate of Operation Atalanta in November 2009, on the understanding that the authorization contained in Security Council resolution 1851 (2008) will be extended.

21. During the reporting period, Operation Atalanta continually demonstrated its ability to act effectively against piracy, providing 47 escort missions and allowing for the safe arrival of all World Food Programme (WFP) and United Nations-related shipments. To date, the operation has ensured the delivery of approximately 279,000 tons of humanitarian assistance. Since it commenced operational activities, Operation Atalanta has successfully disrupted more than 15 attacks. States Members of the European Union and contributing non-European Union States have deployed naval assets comprising more than 20 vessels and aircraft and 1,800 personnel as part of the operation or to supplement the team at the European Union operational headquarters. To date, as many as 12 European Union ships and a number of maritime patrol aircraft, contributed by various European Union member States, have been operating at any one time.

North Atlantic Treaty Organization

22. As noted in my previous report, NATO was one of the first international organizations to respond to the piracy challenges off the coast of Somalia by agreeing, in October 2008, to escort WFP vessels using its Standing Maritime Group 2. During the reporting period, NATO continued to be actively engaged in the long-term efforts to combat piracy in the region by deploying Operation Ocean Shield, which replaced Operation Allied Protector in August 2009. The operation continues to comprise five NATO vessels from Standing Maritime Group 2, which patrol the waters off the Horn of Africa and along the internationally recommended transit corridor in concert with the Operation Atalanta and the Combined Maritime Forces.

23. During the reporting period, NATO escorted over 50 merchant vessels, including several contracted by WFP to deliver humanitarian assistance to the region, under the coordination of Operation Atalanta. Those NATO forces were also involved in some 46 incidents whereby NATO units boarded suspicious small craft, provided humanitarian assistance to beleaguered merchant vessels and responded to emergency calls, including from vessels under pirate attack.

Combined Maritime Forces

24. The Combined Maritime Forces are a United States-led international naval coalition whose mission is to conduct both integrated and coordinated operations in the Gulf of Aden, the Gulf of Oman, the Arabian Sea, the Arabian Gulf, the Red Sea

and parts of the Indian Ocean, covering over 2.5 million square miles of international waters. The forces comprise three principal combined task forces: CTF-150, CTF-151 and CTF-152. Of those, CTF-150 and CTF-151 have specifically undertaken efforts to combat piracy off the coast of Somalia. Over the reporting period, the Combined Maritime Forces continued to ensure tactical "deconfliction" between all ships and Member States operating in the Gulf of Aden, including a good level of shared awareness and optimal allocation of assets.

25. As indicated in my previous report, CTF-150, which was the first multinational naval force to contribute to the fight against piracy off the coast of Somalia, operated until 11 January 2009. On 22 January, the counter-piracy role was assumed by CTF-151. Depending on operational requirements, CTF-150 and CTF-151 have both typically had assigned to them between five and eight ships and aircraft from various naval forces and personnel from several nations. Several Member States have contributed to the Combined Maritime Forces in the fight against piracy, including Australia, France, Germany, Italy, Pakistan, Canada, Denmark, the Republic of Korea, Singapore, Turkey, the United States and the United Kingdom.

26. Combined Maritime Force operations have successfully deterred several pirate attacks, responded to emergency calls from vessels in distress and seized large quantities of contraband, including weapons, drugs and paraphernalia.

Additional efforts by Member States

27. Several Member States have independently contributed to the international counter-piracy efforts off the coast of Somalia. Japan, China, the Russian Federation, India, Malaysia, the Republic of Korea, Saudi Arabia, the Islamic Republic of Iran and Yemen have all deployed naval ships and/or aircraft to fight piracy in the region. Those fleets, in varying degrees of coordination with the coalition forces, have escorted hundreds of merchant ships from their own country and those of other Member States, provided close protection for designated merchant vessels, including for vessels released by pirates, conducted rescue operations for vessels in distress and confiscated large quantities of weapons and other contraband.

Coordination of military and civil-military initiatives

28. In my previous report, I noted that the European Union Naval Force was in the process of putting in place various mechanisms that would facilitate the coordination of the naval protection provided by the three multinational maritime coalitions and independent navies of several Member States, as well commercial maritime traffic off the coast of Somalia. I welcome the close cooperation and coordination between the various naval forces and the merchant ships transiting the area.

29. The primary mechanism that successfully brings together the naval forces to achieve a common aim is the Shared Awareness and Deconfliction (SHADE) group led by the Combined Maritime Forces and European Union Naval Force. SHADE is a voluntary international military group established in December 2008 as a means of sharing best practices, conducting informal discussions and "deconflicting" the activities of those nations and organizations involved in military counter-piracy operations in the region. Initially, SHADE participation involved only the Combined

Maritime Forces (based in Bahrain), the European Union Naval Force and NATO. However, over the reporting period it rapidly expanded to include many regional nations and navies operating under independent mandates, such as those of China, India, Japan and the Russian Federation. SHADE meets on a monthly basis at the expert level in Bahrain, at the most recent meeting, 26 nations were represented, together with three coalitions and representatives from industry.

30. The achievements of SHADE over the past 11 months include the emergence of coordinated and focused military naval operations off the coast of Somalia; command opportunities and assets being shared across SHADE participants, such as Singaporean and Turkish commanders operating from United States warships; the establishment of an internationally recommended transit corridor in the Gulf of Aden, which was endorsed by IMO in July 2009; the development of an internationally recommended transit corridor coordination guide; and significantly improved coordination with industry.

31. The Operation Atalanta Maritime Security Centre — Horn of Africa (MSC-HOA) is a civil-military coordination centre with the task of safeguarding merchant shipping operating in the region by preventing and deterring acts of piracy in the Gulf of Aden, off the Horn of Africa and in the Somali Basin. The Centre's innovative and powerful Internet portal enables the European Union Naval Force to liaise and communicate with the international merchant community, allowing vessels to register their movements and receive advice on best practices and updates on piracy activity in the region. Mercury, an innovative military communications system developed during the reporting period, allows the military naval forces in the region, including all SHADE participants, to communicate in real time.

32. Other cooperative frameworks and arrangements include the United Kingdom Maritime Trade Organization office in Dubai, which acts as a point of contact for merchant vessels and liaison with military forces in the region. The Dubai office also administers the voluntary reporting scheme, under which merchant vessels are encouraged to send regular reports while transiting the region bound by the Suez, 78° E and 10° S. Information gathered by the Dubai office is passed to the Combined Maritime Forces and European Union headquarters, enabling emerging and relevant information affecting commercial traffic to be passed directly to ships, improving responsiveness incidents and saving time.

33. Another example is the Maritime Liaison Office, which facilitates the exchange of information between the Combined Maritime Forces and the commercial maritime community in the Middle East. Its support to the commercial maritime community currently spans 27 nations, including 7 in the Horn of Africa. To help combat piracy, the Maritime Liaison Office serves as a secondary emergency point of contact (after the United Kingdom Maritime Trade Organization) for mariners in distress and also disseminates transit guidance to the maritime industry.

VI. Further efforts to safeguard international navigation

A. Shipping industry

34. On 29 May 2009, the Bahamas, Liberia, the Marshall Islands and Panama became the first signatories to the New York Declaration — a sign of commitment by Member States to the promulgation of internationally recognized best management practices for the protection of ships against piracy. As at the date of the present report, the Declaration had five additional signatories: Cyprus, Japan, Singapore, the United Kingdom and the United States of America. Those signatories now account for more than 50 per cent of the world's shipping by gross tonnage.

35. As part of the efforts of the international community to protect merchant shipping and in addition to the promulgation and dissemination of internationally recognized best management practices for self-protection, the Marshall Islands has established a system of immediate communication with MSC-HOA for ships under attack. However, while the use of the best management practices has proved successful, some Member States have called for a single point of entry for all calls from vessels in distress.

36. The improved self-protection of ships is the result of a number of initiatives, including the efforts made by IMO since 2005 to outline number of specific actions to be taken by Governments (IMO Assembly resolutions A.979(24) and A.1002(25)), and its revision of the recommendations given to Governments (MSC.1/Circ.1333) as well as the guidance to shipowners and ship operators, shipmasters and crews (MSC.1/Circ.1334), updating the global counter-piracy guidance issued and revised, on a number of occasions in response to emerging practices, by IMO since the 1990s. In addition, it has recommended the use of the internationally recommended transit corridor and promulgated for use by Governments and the industry the contact details of security forces operating ships in the area (MSC.1/Circ.1302 and Safety of Navigation Circular SN.1/Circ.281) and the industry-developed best management practices (MSC.1/Circ.1332 and MSC.1/Circ.1335). IMO is also reviewing the Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships, which was adopted in November 2001. All of those IMO instruments help to raise the level of situational awareness among seafarers, the shipping industry and Member States.

B. Civil-military cooperation

37. Another key element of the strategy to protect global maritime trade transiting the waters off the coast of Somalia is enhanced civil-military cooperation. The internationally recommended transit corridor is now the primary method for merchant vessels transiting the Gulf of Aden and is supported by naval forces involved in counter-piracy activities in the region, including Operation Atalanta, the Coalition Maritime Forces, NATO, China, Japan, the Republic of Korea and some regional countries. This system enables commercial shipping registering in advance using MSC-HOA to transit "high risk" seas at appropriate times protected by naval assets patrolling the relevant area. By grouping merchant shipping by speed, with staggered starting points, the mechanism allows for close monitoring and quicker response by the nearest naval asset in case of emergency. In comparison with convoys and escorts, group transit has proved to be a very effective use of limited

military assets to protect the maximum number of vessels. I welcome the close cooperation and coordination between the various naval forces and the merchant ships transiting the area.

VII. Strengthening regional maritime, legal and law enforcement capacity

A. Implementation of the Djibouti Code of Conduct

38. The Djibouti Code of Conduct, which was adopted at a meeting convened by IMO in January 2009, is a central instrument in the development of regional capacity to combat piracy. IMO is assisting in the implementation of the Code in cooperation with the United Nations Office on Drugs and Crime, INTERPOL, the Information Sharing Centre of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia, a number of its member States and a number of navies. Its main objective is cooperation to the fullest possible extent, and in a manner consistent with international law, in the repression of piracy and armed robbery against ships, with a view to sharing and reporting relevant information through a system of national focal points and piracy information exchange centres in Kenya, the United Republic of Tanzania and Yemen; interdicting ships suspected of engaging in acts of piracy or armed robbery against ships; ensuring that persons committing or attempting to commit acts of piracy or armed robbery against ships are apprehended and prosecuted; and facilitating the proper care, treatment, and repatriation of persons subject to acts of piracy or armed robbery against ships, in particular those who have been subjected to violence.

39. The Djibouti Code of Conduct also addresses shared operations — both between signatory States and with navies from outside the region — such as nominating law enforcement or other authorized officials to embark on the patrol ships or aircraft of another signatory. Furthermore, each signatory undertakes to review its national legislation with a view to ensuring that there are national laws in place to criminalize acts of piracy and armed robbery against ships, and that they are also adequate guidelines for the exercise of jurisdiction, the conduct of investigations and prosecutions of alleged offenders.

40. In order to assist States in better implementing the provisions of the Djibouti Code of Conduct with respect to situational awareness, IMO will continue to work with international organizations and IMO member States in the implementation of technical cooperation projects. Thus, focal points from each State signatory to the Djibouti Code of Conduct are undertaking a range of training activities, including a regional workshop in Seychelles in October, conducted by IMO, in conjunction with the United Nations Office on Drugs and Crime, INTERPOL and the Information Sharing Centre, as well as participating in capacity-building workshops organized by the Centre in Singapore and the Philippines in November 2009.

41. IMO activities to implement the Djibouti Code of Conduct, currently funded through the IMO technical cooperation programme, will be funded through the Djibouti Code trust fund, a multi-donor fund established following significant donations from Japan. The trust fund is being administered by IMO and is independent from, but complementary to, the international trust fund supporting initiatives of the Contact Group on Piracy Off the Coast of Somalia.

42. The IMO secretariat has recently undertaken a review of national legislation from contracting Governments based on a request included in Circular letter No. 2933 of 23 December 2008. The secretariats of IMO and United Nations Office on Drugs and Crime have drawn a number of preliminary conclusions which indicate a lack of appropriate implementation reflecting the universal character of the jurisdiction of the United Nations Convention on the Law of the Sea related to piracy. Significant improvements in terms of arrests and prosecution for piracy may be achieved when law enforcement personnel engaged in the suppression of piracy and armed robbery have sound legal protection when carrying out their duties. In this regard, IMO experts work in close cooperation with their counterparts from the United Nations Office on Drugs and Crime. The Office of Legal Affairs and IMO will be working closely with the United Nations Office on Drugs and Crime to complete the legislative review and to consider how best to assist States in taking appropriate steps under their national law to facilitate the apprehension and prosecution of those who are alleged to have committed acts of piracy.

43. The Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs, as the secretariat of the United Nations Convention on the Law of the Sea, has a mandate to assist States and international organizations in the uniform and consistent application of the provisions of the Convention, including those relating to the repression of piracy. In this regard, the Division provides information and advice to States and international organizations, on request, regarding the international legal framework, as contained in the Convention, for the repression of acts of piracy. It also provides information to the General Assembly on recent developments relating to piracy and armed robbery against ships in the annual report of the Secretary-General on oceans and the law of the sea.

44. IMO has competence to assist national authorities in enacting international maritime conventions under its purview, and the United Nations Office on Drugs and Crime has competence to assist national authorities with the development of criminal law expertise and the implementation of international crime conventions and standards and norms. The Office has been working to enhance the capacity of regional States to ensure fair trials within the framework of the rule of law.

45. It is critical to assist States in prosecuting suspected pirates in order to deter further acts and fight against impunity for those crimes. The United Nations is helping regional States to address weaknesses in their piracy legislation and to strengthen their criminal procedures and capacities. The United Nations Office on Drugs and Crime, as mandated in resolution 1851 (2008) and pursuant to its mandates to assist Member States in their struggle against serious crime, is providing targeted support and capacity-building to regional countries, such as Kenya and Seychelles, which have entered into an agreement to undertake piracy prosecutions to ensure that the trials and detention are fair, humane and efficient and take place within a sound rule-of-law framework. The main elements of the programme include legislative review and assistance, support for the police, prosecution and judiciary, the provision of logistics and information technology, witness and trial support, prison repairs and refurbishment, training of prosecution, police, maritime authorities and prison management and officers and the development and sharing of regional expertise.

46. Currently, the core support provided by the United Nations Office on Drugs and Crime is focused largely on Kenya, where 100 piracy suspects are undergoing

trial and a further 10 convicted pirates are serving sentences. In the context of the joint European Commission/United Nations Office on Drugs and Crime programme, the Office has reviewed legislation in regional States and agreed on action plans to amend it, where necessary, to support piracy prosecutions; supported prosecutors through training and office improvements; developed court facilities (including the introduction of an entirely new courtroom for piracy and other large trials in Mombasa); delivered witnesses to trial; and substantially improved prison conditions and reduced overcrowding through a judicial review programme and improved police practices and evidence-handling. The Office also worked with the Kenyan authorities to prepare handover guidance on the transfer of suspected pirates to Kenya for prosecution, and this has been widely distributed to naval forces.

47. The United Nations Office on Drugs and Crime will extend those capacity-building measures to other countries in the region that are willing to undertake the prosecution of piracy suspects to reduce the burden presently placed on Kenya. The Office has already provided direct support for the first piracy prosecutions in Seychelles, and will implement a full programme of support for future piracy prosecutions. The Office is also currently working with a number of other regional countries that are considering undertaking piracy prosecutions.

B. International law enforcement efforts

48. INTERPOL is supporting the needs of law enforcement in the region to fight piracy in three areas: increasing the exchange of intelligence; building regional police capacity; and cooperating with other international and regional organizations. The first priority has been to promote information-sharing between INTERPOL, national and regional police agencies, the United Nations, IMO, international and national naval forces and representatives of the shipping industry. All countries in the region are members of INTERPOL. Police entities can share sensitive information through the INTERPOL I-24/7 global secure communications network. Of particular interest is the fact that the legal framework for I-24/7 contains modalities that enable the sharing of information for law enforcement purposes with other entities operating in the anti-piracy field, such as naval vessels.

49. INTERPOL is working with national and regional police agencies (e.g. the Eastern Africa Police Chiefs Cooperation Organization), United Nations entities and the Contact Group to help identify and address the capacity needs of police in the region and to enhance cooperation. For instance, INTERPOL is holding regional workshops for investigators that also help create effective police networks.

50. The organization is working together with the co-drivers from the United States Department of State and the foreign and Commonwealth Office of the United Kingdom, and will host a conference relating to maritime piracy financial investigation in the near future. The objective is to provide a forum for financial investigation experts and policymakers to enhance cooperation, experience and information-sharing with a view to tackling maritime piracy problems by tracing the money trails.

51. INTERPOL has opened an office equipped with I-24/7 in the port of Mombasa, Kenya, as a satellite office of its national central bureau in Nairobi and trained the police personnel. With a view to promoting information-sharing and cooperation, the office is adjacent to the Kenyan police office in the port. With

regard to Somalia, INTERPOL is trying to revitalize the I-24/7 connection of the national central bureau in Mogadishu that was lost as a result of a lack of electrical power. INTERPOL is encouraging member countries to expand access to I-24/7 beyond their national central bureau to other relevant law enforcement entities, and will hold training sessions on I-24/7.

VIII. Addressing the root causes of piracy off the coast of Somalia

A. Actions taken by Somalia to counter piracy

52. The efforts made by the various Somali authorities, as signatories to the Djibouti Code of Conduct, to curb piracy and armed robbery at sea off the coast of Somalia have varied, owing to the differing available resources, legislative frameworks and levels of political stability and security existing in the country. Anti-piracy activities by the Transitional Federal Government continue to face numerous challenges, as highlighted by the Transitional Federal Government Police Commissioner during the 78th INTERPOL General Assembly meeting, held in Singapore, including a lack of capacity to thwart, curb or investigate piracy in areas under the control of the Transitional Federal Government. Despite the numerous challenges, the Transitional Federal Government is planning to reactivate the Somali coastguard as part of the Somali Police Force, and has trained 650 naval forces.

53. In October 2009, Transitional Federal Government law enforcement and security officials conducted, in partnership with international counterparts (the United States, the European Union and the United Nations) a comprehensive security sector assessment, including an assessment of the capacity of the Transitional Federal Government to patrol Somali coastal waters. The results of the assessment will be published in November 2009, allowing for the identification of needs and approaches for the Transitional Federal Government and its security sector, including its coastguard capacities. The design of the civilian police coastguard will be finalized in the short term and presented to donors for funding.

54. In addition to training and providing technical assistance to the Somali coastguard, the Transitional Federal Government has requested assistance for providing for viable livelihoods in the coastal communities concerned in terms of educational and training facilities and cold storage facilities for fish catches.

55. On 23 August 2009, representatives from the Transitional Federal Government and "Puntland" agreed to jointly cooperate on means of fighting piracy, establish a centre for the Somali marine forces, establish training facilities in "Puntland" for the Somali armed forces and provide necessary logistics and material support. On 9 September, representatives of the Transitional Federal Government and Djibouti agreed to accelerate the implementation and establishment of the planned Djibouti training and information centre for anti-piracy purposes and to train the Somali maritime security forces.

56. In "Puntland", the authorities have succeeded in launching limited relevant activities to thwart, curb or investigate piracy. A total of 110 people suspected of acts of piracy are reported to be held in Bossaso prison. An unknown number of them have been convicted of acts of piracy, and the other detainees are awaiting trial or are on remand. The completion of a new prison with a capacity for 600 inmates in

Bossaso is also expected to contribute to the remanding of convicted pirates from neighbouring Member States. The "Puntland" authorities have also engaged in sensitizing local communities, through local media, traditional elders and religious leaders, to raise awareness of the dangers and attractions of piracy for unemployed youth.

57. An effective independent law enforcement and prosecution office and strong district administrations are necessary to prosecute and deter acts of piracy and armed robbery at sea off the coast of Somalia. The re-establishment of a police presence in coastal districts is necessary, as sporadic interventions will have only limited success.

58. In "Somaliland" the authorities are planning on reinforcing their maritime police capacity under the Minister of the Interior. Standing at approximately 325 full-time paid staff and 45 volunteers, the "Somaliland" coastguard has been conducting operations against human trafficking, illegal fishing and the smuggling of illegal commodities and engaging in regional environmental protection activities, in addition to successfully interdicting and capturing piracy suspects. Despite limited resources in terms of speedboats, land-based vehicles and radio communication equipment, the "Somaliland" coastguard has shared and exchanged information with the international naval forces off the coast of Somalia. Authorities in "Somaliland" have made significant efforts in the port of Berbera, with assistance from Norway, to improve and enhance security so that the port complies with IMO requirements, chapter XI-2 of the International Convention for the Safety of Life at Sea and the International Ship and Port Facility Security Code. The port of Berbera has implemented special security procedures for access control, surveillance, security checks and the handling of ships, having a tangible counter-piracy effect for ships docking in the port.

59. The lack of regulatory clarity in Somalia may hamper the ability of the country to effectively protect its maritime interests. The Transitional Federal Government of Somalia may wish to consider reviewing and, if appropriate, updating its national legislation, in conformity with the provisions of the United Nations Convention on the Law of the Sea. For example, the adoption of national legislation implementing the provisions of the Convention in the exclusive economic zone is a key step in the development of an effective legal basis for combating illegal unregulated and unreported fishing in Somali waters.

B. United Nations land-based initiatives

60. Nairobi provides a nexus for agencies working in Somalia and the surrounding region. A subset of the United Nations country team for Somalia has met regularly, together with UNPOS, to advance land-based responses to piracy off the Somali coast. The group reports as cluster 2 of the sub-working group on piracy of the Somalia Integrated Task Force. Individual members of the Nairobi cluster also have links to the other three clusters of the sub-working group. Participants include UNPOS, the Food and Agriculture Organization of the United Nations, the International Labour Organization, IMO, INTERPOL, the International Organization for Migration, the Somalia Monitoring Group, the United Nations Development Programme, the United Nations Office on Drugs and Crime and WFP.

61. Cluster 2 members have worked together to document ongoing activities in sectors and geographic areas that are of relevance in addressing the root causes of piracy. In the initial stages, these were not responses to piracy per se, but a recognition of areas that could be scaled up in order for a response to be effective.

62. In addition to the cluster 2 work, UNPOS and the United Nations country team are working together to develop policy coherence papers, including one on security and one on piracy. Those papers will underpin the future work of the two bodies.

63. It is important to understand that the tools for moving forward in relation to land-based responses already exist. What is needed is commitment and resources to scale up existing knowledge and interventions. Those interventions should be livelihoods-based and allow for the integrated development of the necessary institutional systems. A strong institutional system will be able to take ownership of and then address the piracy problem. If ownership remains external, the solutions will not be sustainable.

64. The United Nations country team, in consultation with authorities, communities and non-governmental organization partners, has developed the United Nations Transition Plan, a common plan for all United Nations agencies, funds and programmes in Somalia for 2008-2010. It is based firmly on objectives set out in the Somali reconstruction and development programme, a study carried out by the United Nations, the World Bank and Somali partners. Five overall outcomes are identified in the Transition Plan: (a) the strengthening of key federal, "Somaliland" and "Puntland" institutions; (b) improved service delivery by local governance in selected locations; (c) improved security and protection under the rule of law; (d) better access to education and health; and (e) improved food security and economic opportunities (livelihoods). Many aspects of the Transition Plan relate to the issue of piracy, but outcomes 4 and, in particular, 5, look to the communities and their livelihoods as an entry point to reduce the need for piracy as an occupation.

65. Cluster 2 has developed a matrix which will enable members to prioritize areas of intervention on the basis of parameters of location, timescale, modalities and partners.

66. Geographic areas prioritized would be in "Somaliland" and "Puntland", moving south to the Hobyo area, with both coastal communities and the immediate pastoral hinterland being addressed, so as to reduce the potential for local resource-based conflict. A planning time horizon of two years was used, based on realistic delivery and absorption capacities. The modality is seen as working collaboratively under a joint programming approach with authorities, including districts, municipalities and traditional systems, communities and the private sector.

67. The sectoral priorities identified include the following broad categories:

(a) Livelihoods: budget estimate $5 million-$10 million; focus on institutional capacities, policy and legal issues and on licensing, broad support to trade, an enhanced fishing sector with storage and environmental protection;

(b) Security sector: budget estimate $5 million-$10 million; focus on policing, courts, custodial services and facilities;

(c) Border management: budget estimate $2 million-$3 million; focus on immigration procedures and linkages to migration to Yemen;

(d) Critical infrastructure: budget estimate $10 million-$15 million; focus on linkages to immediate job creation, health, education, water, hygiene and environment;

(e) Critical services: budget estimate $5 million-$10 million; linked to critical infrastructure, e.g., schools, health centres.

68. The prioritization exercise produced a budget envelope of around $30 million-$50 million. It is crucial that a broad-based, coordinated and balanced approach be taken across a number of fronts.

69. The United Nations Office on Drugs and Crime provides technical support to Somalia. Although it may be some time before the circumstances of trial in Somalia have the legal and fairness standards to allow navies to transfer suspects for trial, UNDP is working to improve the prison system and develop a custodial corps. The Programme is also working with the Office to help ensure the development of a custodial system and to ensure that two recently completed modern prisons are staffed, managed and operated in accordance with international standards. Once that work is complete, convicted pirates could be transferred from the regional States in which they have been tried to regions of Somalia to serve all or part of their prison sentences. The Office will encourage the transfer of convicted pirates from Kenya to those prisons in Somalia on the basis of a prisoner transfer agreement.

IX. Piracy and arms embargo-related sanctions

70. Piracy activities constitute a potential violation of paragraph 8 (a) of Security Council resolution 1844 (2008). By raising and maintaining maritime militias, pirate leaders, their followers and financiers may also be in breach of the general and complete arms embargo, and therefore in violation of paragraph 8 (b) of the resolution. Lastly, where acts of piracy involve humanitarian cargo destined for Somalia, they may also be in violation of paragraph 8 (c).

X. Assistance provided to the World Food Programme

71. During the reporting period, WFP continued to benefit from naval escorts provided under European Union Operation Atalanta for humanitarian shipments to Somalia, including life-saving food aid. During that period, the operation made it possible for 28 WFP-contracted vessels to deliver a total of 184,873 tons of food. The operation also provided an escort for critical equipment used for dredging and salvaging in Mogadishu port under a WFP special operation and a shipment for FAO. The European Union operation, which began in December 2008, has been extended until December 2010.

72. Since the escort system began, escorts have been provided at no cost to WFP with an interruption of only two months, in July and August 2008, and no escorted vessel has been the victim of piracy. However, a WFP-contracted vessel, chartered to load a food consignment purchased in India, was attacked and held by pirates following its departure from Somalia to India, forcing WFP to urgently find a replacement vessel. In addition, a ship sailing to the port of Mombasa, Kenya, carrying 27,000 tons of food aid for WFP operations in Kenya, the Sudan and

Somalia, but not under contract to WFP, was attacked by pirates. They failed to hijack it, and the vessel arrived in Mombasa under naval escort.

73. The escalation of piracy in the waters off Somalia has had an impact on the cost of contracting vessels, as fewer vessels are willing to risk sailing to Somalia, thereby reducing competition and causing costs to escalate. The actual rate increases for the ports of Berbera, in northern Somalia and Djibouti, for the Ethiopia operation, have been directly affected by the war risk insurance applied by insurance companies, resulting in an increase of about 30 per cent.

74. Ninety-five percent of WFP humanitarian supplies arrive by sea, predominately at the southern port of Mogadishu from Mombasa, Kenya, and at the northern ports of Bossaso and Berbera from Djibouti. It is crucial that the naval protection for humanitarian shipments continue and that the escorts be clearly distinguished from other anti-piracy efforts in order to maintain and protect the neutrality of the humanitarian operation. The obvious threat to the long-term security of humanitarian maritime supplies is piracy and armed robbery at sea off the coast of Somalia.

XI. Assistance provided to the United Nations Support Office for AMISOM

75. AMISOM plays a crucial role in supporting the Transitional Federal Government, assisting in repelling the insurgents and protecting vital installations in Mogadishu. AMISOM operates in a very difficult and hazardous environment and is subject to continued attacks against its installations as well as mortar attacks against sea shipments delivering cargo for AMISOM in Mogadishu port. As highlighted in my latest report on Somalia (S/2009/503), the United Nations stands firmly by the African Union and AMISOM and pledges to continue its support for the deployment and operations of the Mission. I reiterate my earlier calls on the international community to provide all required support to AMISOM to enable it to continue to support the Transitional Federal Government in maintaining peace and security in Somalia.

76. The United Nations Support Office for AMISOM (UNSOA) is providing a logistical support package in line with Security Council resolutions 1863 (2009) and 1872 (2009). For the delivery of the support package, the sea mode of transportation has proved to be the most feasible. UNSOA commenced regular sea shipments to Mogadishu port as from 26 August 2009 with the support of Operation Atalanta, which has been providing naval escorts for the United Nations-contracted vessels. At this stage, the frequency of UNSOA shipments is approximately one vessel every 14 days for cargo, comprising food ration reefers and sea containers, vehicles and other goods, from Mombasa to Mogadishu. It is important to note that on the return leg (Mogadishu to Mombasa), the food ration reefers and other containers, in addition to equipment returned for repairs, are being sent back to complete the cycle, making them a potential target for attacks. It is therefore important that a naval escort be provided on both legs of the journey. In addition, there will be a requirement for a strategic sealift of contingent equipment for additional troop deployments, as and when required. As AMISOM expands to reach its mandated strength, such requirements will continue to grow.

77. Four of five shipments to AMISOM have been attacked to date. On 16 August, and 11 and 27 September, vessels came under attack from insurgent mortars while in Mogadishu port, resulting in the deaths of 5 and 17 civilians in the first two incidents, respectively. Another vessel was attacked by pirates on 27 August near Mogadishu, but evaded capture. Those attacks were additional to the attacks against a United Nations shipment of military equipment to AMISOM on 12 February 2009, when insurgents fired mortar bombs while the ship was unloading.

78. The most obvious threat to the long-term security of the United Nations supply line to AMISOM is attacks against Mission shipments in the form of mortar attacks on vessels calling on Mogadishu port, piracy, in particular in brown waters off the port of Mogadishu, and the potential for armed robbery at sea. UNSOA shipments carry critical life-support items such as food rations and other critical equipment. Such attacks will have a direct impact on the provision of the logistical support package to AMISOM, and as such its sustainment and, thus, its operational capability and capacity to support the Transitional Federal Government. UNSOA will face difficulties in securing vessels that agree to deliver their supplies to the region, which might put the entire support operation under considerable risk or, if cargo has to be airlifted, pose a considerable financial drain.

79. In order for the United Nations to continue to provide AMISOM with the support package pursuant to the respective Security Council resolutions, it is necessary that guaranteed and reliable protection continue to be provided to United Nations shipments contracted for that purpose. I would like to thank Operation Atalanta for its support and encourage its continued support, together with NATO, CTF-151 and Member States with navies operating in the region, in providing guaranteed protective escorts for the United Nations-contracted vessels in support of AMISOM. I also welcome the proposal of Operation Atalanta to deploy vessel protection detachments once regulatory approvals are in place.

XII. Coordination and leadership role of the United Nations

80. The United Nations remains committed to addressing the problem of piracy and armed robbery at sea off the coast of Somalia in all its aspects. A central pillar of its capacity to do so effectively is the ability to coordinate the various counter-piracy activities of the United Nations departments, programmes and specialized agencies. Since my previous report, the United Nations Integrated Task Force for Somalia has established a sub-working group, chaired by the Department of Political Affairs, for that purpose. The working group brings together all the relevant United Nations entities, including IMO, as well as INTERPOL and the Somalia Monitoring Group. The group meets regularly in New York and is complemented by a similar group established by UNPOS, which coordinates the work of Nairobi-based United Nations entities with New York.

81. The sub-working group mechanism of the United Nations Integrated Task Force ensures that the United Nations Secretariat is well equipped to act as the clearing house for information-sharing with the Contact Group and is an essential instrument for ensuring a coordinated approach on the ground by leveraging the comparative advantages of different entities and avoiding the duplication of activities. Furthermore, the Department of Peacekeeping Operations continues to

play a key role in the sharing of relevant naval information with Member States and international organizations on matters related to piracy off the coast of Somalia.

XIII. Observations

82. Member States operating in the territorial waters and high seas off the coast of Somalia developed complex and comprehensive military naval operations and corresponding coordination mechanisms during the reporting period. At this stage, the various military operations being conducted off the coast of Somalia and in the Gulf of Aden in the fight against piracy and armed robbery at sea necessitate a lead role and coordination arrangements that go beyond the operational capacity and resources of the United Nations Secretariat. I continue to urge those who are able and have the required capacity to contribute to this effort in compliance with relevant Security Council resolutions.

83. I consider that one of the ways to ensure the long-term security of international navigation off the coast of Somalia is through a concerted effort to stabilize the situation ashore, as pirates have become more sophisticated in their methods and techniques of attacking. At present, however, the expanding maritime presence is playing a critical role in stabilizing the situation at sea. Moreover, it is very likely that the number of successful attacks would again increase if military assets were to be reduced.

84. I would again like to reiterate my appreciation to the European Union, through its naval operation, European Union Naval Force Operation Atalanta, and to NATO member States for the consistent support for the protection at sea of WFP humanitarian shipments and United Nations vessels delivering the logistical support package to AMISOM.

85. The efforts of States in deploying naval ships and military aircraft to suppress piracy and armed robbery at sea off the coast of Somalia, as well as better self-protection of ships transiting the area, have considerably reduced the number of successful incidents of piracy and armed robbery at sea in the region, especially in the Gulf of Aden. In this connection, I welcome the 2 November 2009 letter from the Permanent Representative of Somalia to the President of the Security Council renewing the request of the Transitional Federal Government for assistance in securing the international and territorial waters off the coast of Somalia for the safe conduct of shipping and navigation.

86. The coordination mechanisms developed between the international naval forces, such as SHADE, have been innovative, and I trust that such progressive and comprehensive coordination efforts will continue to integrate the military efforts at sea with concrete preventive measures on land. I am grateful to all States that have deployed naval ships and military aircraft, which have led to an increase in the number of suspected pirates being arrested and prosecuted. I encourage the international community to continue these deployments, including the provision of naval escorts to all designated United Nations- and WFP-contracted shipping transiting the region. Furthermore, I encourage contributing States and multinational organizations to consider how these considerable military forces could contribute further to capacity-building measures to address the root causes of piracy.

87. As I mentioned in my previous report (S/2009/146), any measures taken in both the short and long term to combat piracy and armed robbery at sea off the coast of Somalia will require an integrated approach, inclusive of the further development of the rule of law and security institutions, that complements the peace process, the strengthening of capacity on land of both the Transitional Federal Institutions and AMISOM; local and national capacity-building of legal and maritime institutions in Somalia and the region; the investigation and prosecution of those suspected of acts of piracy and armed robbery at sea; strict compliance with arms embargoes in pursuance of the relevant Security Council resolutions; and development and recovery efforts to empower local communities to create sustainable livelihoods.

88. Coordination between the international community and the Somalia authorities will be crucial in order to successfully combat piracy and its root causes. Recent coordination efforts between the Contact Group on Piracy Off the Coast of Somalia and the International Contact Group on Somalia highlight the complex nature of the tasks being undertaken. Furthermore, at the regional level, full implementation of the Djibouti Code of Conduct will enable States in the region to assume many of the roles currently performed by international naval forces operating off the coast of Somalia, therefore allowing them to play a significant role in combating acts of piracy and armed robbery at sea off the coast of Somalia

89. The progress made towards the establishment of the Sana'a regional maritime information centre and the related training centre in Djibouti will help to address the need for regional capacity-building. The training centre in Djibouti and the regional maritime information centres are expected to play a full part in developing the region's capability for maritime law enforcement and, along with other initiatives under the Djibouti Code of Conduct, will benefit from financial assistance from Member States to achieve their objectives. I encourage Member States to contribute to the IMO Djibouti Code trust fund.

90. I welcome the initiative by INTERPOL and Member States to look into the financial mechanisms providing funding for piracy activities off the coast. Tracing money trails will be important to combat the funding activities of piracy and armed robbery at sea off the coast of Somalia

91. I note the burden on regional States, especially Kenya, for prosecuting suspected pirates apprehended off the coast of Somalia, and urge the international community to provide assistance to ease the burden of these Member States, including by supporting the provision of technical assistance for judicial and correction facilities in the region, including Somalia. In this connection, I encourage Member States to contribute to the international trust fund supporting initiatives of the Contact Group, the overall purpose of which is to help defray the expenses associated with the prosecution of suspected pirates, as well as other activities related to implementing the Contact Group's objectives regarding combating piracy in all its aspects. The fund will expand the current possibilities available to the Contact Group and the shipping industry to make tangible contributions to combating piracy off the coast of Somalia.

92. Most important, it will be crucial for the Somali authorities to continue to re-establish their security institutions, and the rule of law and provide sustainable livelihoods to their people in order to address the root causes of piracy and armed robbery at sea off the coast of Somalia. There is a need for the authorities to demonstrate the political will to counter piracy and armed robbery at sea off the

coast of Somalia by establishing an effective law enforcement and independent justice system. Corruption from all sources, including human trafficking and the smuggling of illegal commodities, needs to be eliminated, including through the prosecution of officials to effectively counter piracy and armed robbery at sea off the coast of Somalia. I reiterate that I stand ready to support the Somali authorities and urge the international community to provide necessary assistance.

93. Efforts that contribute to the security of the ports in Somalia have demonstrated a tangible counter-piracy effect. Such measures include the implementation of special security procedures for access control, surveillance, security checks and the handling of ships. Counter-piracy efforts that strengthen security at ports along the coast of Somalia can effectively prevent pirates from using the Somali territorial sea as a safe haven to elude military forces patrolling the area. I would encourage Member States and regional organizations that are in a position to do so to coordinate efforts to assist the Transitional Federal Government to strengthen Somali port security.

94. While all of the above-mentioned efforts could contribute to alleviating the problem of piracy off the coast of Somalia, it is important that any long-term effort to address lawlessness at sea complement the current political, security, recovery and development efforts being carried out by the United Nations and AMISOM, as detailed in my report on the situation in Somalia dated 20 July 2009 (S/2009/373) and pursuant to resolution 1872 (2009).

95. I encourage the Contact Group on Piracy Off the Coast of Somalia to continue coordinating its initiatives with the International Contact Group on Somalia, chaired by my Special Representative, and reiterate that piracy is a symptom of a wider problem ashore in Somalia and that the only sustainable solution will be effective governance, the establishment of the rule of law and security institutions and the creation of alternative livelihoods in Somalia for stable and inclusive economic growth.